

Appl. No.: 11/832,450  
Amdt. dated July 1, 2009  
Reply of Office action of May 1, 2009

Docket No. CL-10388

### **REMARKS**

Claims 1 and 3-10 are currently pending in the application. Applicant has canceled claims 1-6. Applicant requests reconsideration of the application in light of the following remarks.

#### **Request to Admit the Amendment**

Applicant believes that the foregoing amendment complies with the Examiner's requirement of form by canceling the rejected claims, thereby resulting in only the pendency of the claims that the Examiner has indicated are allowed. Pursuant to 37 C.F.R. § 1.116(a), Applicant requests the Examiner admit the amendment. However, even if the Examiner decides not to admit the amendment under 37 C.F.R. § 1.116(a), Applicant respectfully requests the Examiner admit the amendment pursuant to 37 C.F.R. § 1.116(b). Applicant has now canceled claims 1-6 without traverse to obtain immediate allowance of the allowable subject matter, specifically claims 7-10. Upon these good and sufficient reasons for why the amendment is necessary and was not earlier presented, Applicant requests the Examiner admit the amendment pursuant to either 37 C.F.R. § 1.116(a) or 37 C.F.R. § 1.116(b).

#### **Rejections under 35 U.S.C. §103**

To establish a *prima facie* case of obviousness under 35 U.S.C. §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a

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reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based upon the Applicants' disclosure. A failure to meet any one of these criteria is a failure to establish a *prima facie* case of obviousness. MPEP §2143.

### **Claims**

Claims 1 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim (EP 0860407, hereinafter “Kim”), in view of Ginyama et al. (JP 2000233166, hereinafter “Ginyama”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Claims 1 and 3 have now been canceled without traverse to obtain immediate allowance of the allowable subject matter. The rejection of claims 1 and 3 is, therefore, obviated.

Applicant respectfully requests that the obviousness rejection of claims 1 and 3 be withdrawn.

Claims 4-6 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kim (EP 0860407, hereinafter “Kim”). Applicant respectfully traverses this rejection and requests reconsideration of the claims.

Claims 4-6 have now been canceled without traverse to obtain immediate allowance of the allowable subject matter. The rejection of claims 4-6 is, therefore, obviated.

Applicant respectfully requests that the obviousness rejection of claims 4-6 be withdrawn.

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**Confirmation of Allowed Claims**

Applicant wishes to thank the Examiner for his confirmation of the patentable subject matter of claims 7-10. Claims 1-6 have been canceled herein in favor of a continuation application which will pursue these claims further.

**Regarding Doctrine of Equivalents**

Applicant hereby declares that any amendments herein that are not specifically made for the purpose of patentability are made for other purposes, such as clarification, and that no such changes shall be construed as limiting the scope of the claims or the application of the Doctrine of Equivalents.

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**CONCLUSION**

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If any fees, including extension of time fees or additional claims fees, are due as a result of this response, please charge Deposit Account No. 19-0513. This authorization is intended to act as a constructive petition for an extension of time, should an extension of time be needed as a result of this response. The examiner is invited to telephone the undersigned if this would in any way advance the prosecution of this case.

Respectfully submitted,

Date: July 1, 2009

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